ATTACHMENT 7

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by SBC Communications Inc.,	)	
Southwestern Bell Telephone Company, and	)	CC Docket No. 00-4
Southwestern Bell Communications Services	)	
Inc. d/b/a Southwestern Bell Long Distance	)	
For Provision of In-Region, InterLATA	)	
Services in Texas	)	

DECLARATION OF

C. MICHAEL PFAU

AND

JULIE S. CHAMBERS

ON BEHALF OF

AT&T CORPORATION

JANUARY 31, 2000

TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by SBC Communications Inc.,	)	
Southwestern Bell Telephone Company, and	)	CC Docket No. 00-4
Southwestern Bell Communications Services,	)	
Inc. d/b/a Southwestern Bell Long Distance	)	
for Provision of In-Region, InterLATA	)	
Services in Texas	)	

DECLARATION OF C. MICHAEL PFAU AND JULIE S. CHAMBERS
ON BEHALF OF
AT&T CORPORATION

I. QUALIFICATIONS

A. C. Michael Pfau

1. My name is C. Michael Pfau. I am employed by AT&T Corporation ("AT&T") as Division Manager, AT&T Public Policy. My business address is 295 North Maple Avenue, Basking Ridge, New Jersey 07920.

2. Since 1998, my responsibilities have included (among other things) the development and execution of AT&T's national strategy for xDSL technology, particularly ADSL. To that end, I have developed AT&T's policies on advanced services and the unbundling of network elements as expressed in AT&T's initial and reply comments in FCC CC Docket Nos. 96-98 and 98-147. I have also been actively engaged with regional teams charged with implementing AT&T's national strategy for ADSL. My other responsibilities and general qualifications are detailed in my separate declaration (with Ms. Sarah DeYoung) regarding performance measurements.

B. Julie S. Chambers

3. My name is Julie S. Chambers. I am employed by AT&T as District Manager, AT&T/SWBT Account Team. My business address is 5501 LBJ Freeway, Suite 800, Dallas, Texas 75240.

4. My current responsibilities include managing the relationship with the SWBT Account Team to escalate and resolve all operational and policy issues involving AT&T's UNE-P service in Texas. Among other duties, I represent AT&T at SWBT-related meetings involving issues such as Change Management, CLEC Users Forum, xDSL workshops, and Performance Measures.

5. In 1997, I joined the negotiation team for the SWBT/AT&T Interconnection Agreement in SWBT's five-state region. I represented AT&T in negotiation, arbitration, mediation, and Section 271 collaborative sessions with state public utility commissions in Texas, Missouri, and Kansas. I also served as project leader for the service and systems readiness test for AT&T's UNE-P entry into the Texas residential market. Prior to joining AT&T's local team, I worked in AT&T's business sales organization, as both an account consultant and the branch results manager. I graduated *magna cum laude* from Texas A&M University with a bachelor's degree in Business Marketing.

II. PURPOSE AND SUMMARY OF THE DECLARATION

6. This declaration describes the many ways in which SWBT is unlawfully hindering the ability of AT&T and other new entrants to provide advanced services even as SWBT is aggressively and successfully deploying its own advanced services throughout Texas.[1]

[1] As discussed below, the number of xDSL-capable loops SWBT provided to its competitors in Texas over the past 18 months is approximately 1000, which is less than the number of xDSL customers SBC is signing up and serving (across its multi-state region, but with a significant number in Texas) every single day.

Specifically, SWBT has not complied with its statutory duties to provide nondiscriminatory access to xDSL-capable loops and the operational support systems and processes that are needed to enable Texas consumers to benefit from a competitive market for xDSL services. In fact, SWBT is using its control over essential xDSL-related inputs to prevent advanced services competition from AT&T and other competitive local exchange carriers ("CLECs"). SWBT's practices not only constrain competition for advanced services but also jeopardize the limited voice competition that currently exists in Texas.

7. AT&T is committed to provide consumers and businesses throughout the State of Texas with a competitive choice for local telephone services. However, AT&T's ability to compete effectively, especially for residential consumers, is critically dependent upon SWBT's compliance with its statutory obligations to provide efficient and nondiscriminatory access to combinations of network elements, including the "UNE-Platform" or "UNE-P." But that alone is not enough. SWBT must also have policies, procedures, and practices in place that enable AT&T (itself, or through partners) to provide consumers with the full range of services they desire, including advanced data services; otherwise, consumers will not be able to purchase some services -- and will be less inclined to order *any* services -- from AT&T. Thus, SWBT's inability (or unwillingness) to support AT&T's and other new entrants' xDSL needs not only impairs competition for advanced services but also jeopardizes competition for voice services as well.

8. SWBT's xDSL activities to date reveal an unmistakable pattern of efforts designed to reinforce its current market dominance and to create a situation in which SWBT -- uniquely among all market participants -- can offer the full line of services consumers want. Through the aptly-named "Project Pronto," SWBT has moved with remarkable speed to implement its own

xDSL offerings and quickly achieved substantial success. At the same time, SWBT has blocked the efforts of would-be xDSL competitors at every turn, and it has even obstructed government authorities' efforts to investigate SWBT's anticompetitive treatment of its rivals. Overall, the record demonstrates that SWBT has deliberately and systematically held its rivals back for its own selfish advantage.[2]

9. Despite a variety of corrective measures imposed by the Texas PUC and by the FCC, and despite some apparent concessions by SWBT itself, the company has not demonstrated anything close to checklist compliance for its xDSL-related services and activities. SWBT's performance deficiencies are many and varied, but two are especially damaging to the prospects for competition and must be decisively addressed by the Commission before it allows SWBT to obtain relief under Section 271:

- *First*, SWBT (or its data affiliate) is denying its xDSL service to customers who choose a UNE-P CLEC for voice service.[3]

- *Second*, SWBT has failed to provide and support fully functional and nondiscriminatory operational procedures that enable CLECs who are employing a UNE-P architecture to provide voice services to offer xDSL capabilities to their customers, either themselves or through voluntary partnerships with other carriers.[4]

10. Competition in xDSL services is, of course, important in its own right. Section 706 of the Telecommunications Act of 1996 (the "Telecommunications Act") highlights the

---

[2] As Texas PUC Commissioner Walsh observed, "Southwestern Bell . . . delayed the ability of these [DSL competitors] to enter the market and our ability to review commercial data to evaluate Southwestern Bell's wholesale provision of DSL capable loops. Southwestern Bell should not now benefit from having this critical requirement glossed over in the 271 application." Investigation into Southwestern Bell Telephone Company's Entry into In-Region InterLATA Service under Section 271 of the Telecommunication Act of 1996, Project No. 16251 Transcript of Proceedings Before the Public Utility Commission of Texas, at 26 (Nov. 4, 1999) ("11/4 TPUC Open Meeting Tr."), attached hereto as Attachment 1.

[3] It is imperative that SWBT's current practice in this regard be ended immediately, and in any event no later than the time when SWBT obtains authority to offer interLATA services.

[4] Corrective mechanisms must be commercially viable at the earlier of the date Section 271 relief is granted or the time when SWBT offers "line sharing" to its advanced services affiliate and to data-oriented CLECs pursuant to existing Commission orders.

importance of high-speed telecommunications services in fulfilling burgeoning consumer demand for advanced services, and the FCC's related inquiry and rulemaking properly recognize the vital role of competition in deploying high-speed services to all Americans on a reasonable and timely basis.

11. The strategic significance of xDSL is not, however, confined to the potential for various carriers to deliver broadband service as a stand-alone telecommunications offering. Advanced data capabilities will have a major impact on the marketing of "bundled" packages of telecommunications services, including traditional local and long distance voice plans. Many carriers, including SBC, have recognized the competitive advantages of offering "one-stop shopping" to consumers. Competition is likely to be irreparably stunted if an incumbent local exchange carrier ("ILEC") -- in this case, SWBT -- is the only carrier that can offer a complete package of local, long distance, and xDSL services.

12. SBC's retail xDSL strategy, known as "Project Pronto," is designed to bolster the company's already dominant position in the markets it serves. SBC has described Project Pronto as "an unprecedented, $6 billion initiative . . . to transform the company . . . into the largest single provider of advanced broadband services in America,"[5] and it has told investors it expects Project Pronto to generate $3.5 billion in new annual revenues by 2004.[6] SBC Chairman Edward Whitacre envisions "a rapidly changing marketplace where traditional dialtone is still a staple service, but where millions of our customers will demand the convenience, productivity,

---

[5] SBC Communications, Inc., *SBC Launches $6 Billion Initiative to Transform it Into America's Largest Single Broadband Provider*, Press Release (Oct. 18, 1999) ("*SBC Pronto Press Release*"), attached hereto as Attachment 2.

[6] SBC Communications, Inc., *SBC Reports Strong Revenue and Earnings Growth for Fourth Quarter, Full-Year 1999*, Investor Briefing, at 3 (Jan. 25, 2000) ("*SBC Investor Briefing*"), attached hereto as Attachment 3.

availability, and reliability of our broadband service -- service which we call 'e-tone.'"[7] James Gallemore, SBC's executive vice president of strategic marketing and planning, said, "With e-tone, we have a powerful way to attract and retain customers . . . ."[8] Whitacre has boasted that, once Project Pronto is completed, "*only SBC will have all the pieces*" needed to provide the range of services that consumers want and expect.[9]

13. By every indication, SBC is following through aggressively to implement Project Pronto, cementing its hold on the xDSL market across its region. SBC's latest earnings report shows the company signed up 70,000 xDSL customers in the last three months, for a current total of 169,000 subscribers, and is now installing xDSL service at the rate of *1,100 customers a day*.[10] By the end of 1999, SBC's xDSL services were available at 10 million customer locations, exceeding initial projections, and by the end of 2000, SBC plans to have 6200 "neighborhood gateways" operational, helping to overcome loop limitations and expand the addressable market.[11] SBC expects to sign up one million xDSL customers by the end of 2000,[12] and to make xDSL service available to more than 80 percent of its customers by the end of 2002.[13]

---

7 *SBC Pronto Press Release*, at 1 (quoting Edward Whitacre, Jr.).

8 *Id.* at 3 (quoting James Gallemore) (emphasis added). Gallemore is the same SBC executive who vowed in 1995 that, if incumbent telephone companies were required to open their local markets to competitors, "we want to make our welcome mat smaller than anyone else's." Peter Burrows, "Pick of the Litter: Why SBC Is the Baby Bell to Beat," Bus. Wk., Mar. 6, 1995, at 70, attached hereto as Attachment 4. Gallemore's current assignment as one of the top executives responsible for implementing SBC's ADSL rollout is a telling sign of the role SBC sees for xDSL in helping to foreclose local competition.

9 *SBC Pronto Press Release*, at 4 (quoting Whitacre) (emphasis added). Whitacre explained, "by converting the 'last mile' into a high speed 'first mile' on ramp to the Internet, we are making nearly all of our 60 million access lines more powerful for customers and more valuable to shareholders . . . . Project Pronto together with our expanding service footprint and plans to provide long distance service, is an integral part of our plan to be a full service, global provider and the only communications company our customers need." *Id.* at 2.

10 SBC Investor Briefing at 3.

11 *Id.*

12 *Id.*

13 *See* SBC Investor Briefing at 3.

14. SBC and SWBT have not broken out the numbers for Texas in their public filings and press releases, but in mid-1999, they announced plans to reach 3.8 million locations from 271 central offices in Texas and four other states by the end of the year.[14] Project Pronto is reportedly ahead of schedule,[15] so SWBT presumably has surpassed these initial goals. Indeed, according to SBC's website, SWBT has xDSL facilities deployed in zip codes that include over 70 percent of the state's population.[16] SWBT currently offers its xDSL services to approximately 218 cities and towns in Texas, including Dallas, Fort Worth, Houston, San Antonio, Lubbock, El Paso, Beaumont, Austin, Corpus Christi, Frisco, Irving, Plano, Odessa, and Abilene.[17] In sharp contrast, the Application acknowledges that *fewer than 1,000 xDSL loops* have been provisioned by SWBT for competitors in Texas and remain in operation.[18] In other words, competitors have fewer xDSL lines in service in Texas, after nearly two years of effort, than SBC now provides to its own customers in the course of a *single business day.*

15. SWBT has thus engineered for itself a considerable "first-mover" advantage as a result of its ability to bring xDSL services to a mass market while its competitors have been sidelined by their inability to obtain non-discriminatory provisioning for their own xDSL

---

[14] *See* "*Southwestern Bell Launches High-Speed DSL Services in San Antonio,*" SBC News Release (July 1, 1999); attached hereto as Attachment 5; *see also* SBC Communications, Inc., "*SBC: Leader of the Bandwidth,*" News Release (Jan. 12, 1999) (*"SBC Leader"*), attached hereto as Attachment 6.

[15] SBC Investor Briefing at 3.

[16] The extent of SWBT's xDSL deployment in individual zip codes is not available.

[17] Southwestern Bell Notification Letter, "DSL Planning Inquiry (DPI) Web Site Update - Arkansas, Kansas, Missouri, Oklahoma, Texas" (dated Jan 10, 2000), attached hereto as Attachment 7. *See* Jennifer Darwin, "Southwestern Bell Puts 'Net Plans in Overdrive as High-Speed Option," HOUSTON BUSINESS JOURNAL, at 19 (October 22, 1999), attached hereto as Attachment 8. (quoting SWBT technologist as saying, "One hundred [SWBT employees] in Houston do nothing but install ADSL all day long"); *see also* Dwight Silverman, "SBC Maps Superfast Access Plans -- Most of Houston to See ADSL Upgrade by 2002," Houston Chronicle, October 19, 1999, at 1, attached hereto as Attachment 9.

[18] *See* Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Texas, CC Docket No. 00-4, at 39 (filed Jan. 10, 2000) ("SWBT Application").

offerings. This has major competitive effects that could inure to SWBT's advantage for years. As one analyst put it, "[I]t is generally conceded that whoever gets a broadband customer first . . . will likely keep that customer for years."[19] When Project Pronto was announced, SBC emphasized that "in addition to offering the services and integrated packages business and residential customers want, *SBC will be first to market, ahead of competitors* . . . . All we need is long distance, which is just around the corner . . . to provide consumers and businesses with their total communications needs."[20] Thus, SWBT's ability to undertake mass marketing on behalf of its own retail ADSL service while competitors face major SWBT-created hurdles when ordering minimal numbers of xDSL loops has serious ramifications for the long-term future of every segment of the telecommunications market in Texas.

16. SWBT's intent to foreclose competition by delaying or denying xDSL facilities to CLECs is confirmed by its intransigence in dealing with new entrants who have sought to offer xDSL capabilities. Thus, as discussed below, the Application's superficial story about the state of xDSL competition simply cannot be squared with the reality faced by CLECs as they have struggled to win the right to compete against SWBT's xDSL offering in Texas. Contrary to SWBT's claims, the record clearly demonstrates that:

(i) SWBT's prior actions have stifled xDSL competition in Texas while allowing SWBT to position its own xDSL offering for commercial success;

(ii) SWBT is not yet provisioning xDSL-capable loops to competitors in a manner that meets its statutory obligations;

---

[19] Peter J. Howe, *Flag Dropped in Race to Wire U.S. for Speed: AOL Deal Seen Driven by Providing 'Broadband' Net Access*, THE BOSTON GLOBE, at D1 Jan. 20, 2000 ("Howe") at D1, attached hereto as Attachment 10.

[20] *SBC Pronto Press Release* at 3 (internal quotation marks omitted) (quoting Gallemore; emphasis added).

(iii) SWBT is further constraining competition by its failure to support xDSL capabilities and services that are essential to support advanced services competition from AT&T and other new entrants; and

(iv) neither the "separate" SWBT data affiliate nor the proposed additional consequences for SWBT's market limiting performance provide any basis for assuming that SWBT will meet its obligations in the future.

III. AT&T NEEDS NONDISCRIMINATORY ACCESS TO REQUIRED xDSL CAPABILITIES IN ORDER TO IMPLEMENT ITS EFFORTS TO ENTER THE TEXAS MARKET

A. AT&T Is Committed To Bring Consumer Choice to Texas

17. AT&T has demonstrated its commitment to bring local telephone competition to the mass market throughout the nation, and particularly in Texas. When the Telecommunications Act was enacted, AT&T promptly established an organization dedicated to entering the local market in Texas. In contrast to other new entrants, who focused primarily on large business customers located in downtown areas of large cities, AT&T's objective was and remains to quickly offer local service to business and residential customers throughout the state, on a scope and scale that matches AT&T's long distance offerings. AT&T's efforts to enter the local market in Texas are discussed in greater detail in the Declaration of Phillip W. Tonge and Edwin P. Rutan II.

B. AT&T Must Rely on the Availability of UNE-P To Serve Residential Consumers in Texas

18. The Commission has repeatedly and correctly recognized that the broad availability of network elements and network element combinations pursuant to the Telecommunications Act is, in many circumstances, a necessary precondition to the deployment of new network facilities by CLECs. Given current market conditions, the ability of competitive carriers to use unbundled network elements, including combinations of unbundled network elements, "is integral to achieving Congress' objective of promoting rapid competition to all consumers in the local

telecommunications market."[21] In particular, the Commission has indicated that the availability of the UNE Platform, or UNE-P, is essential for residential competition.[22] With access to UNE-P, a CLEC is not faced with an immediate requirement to collocate, deploy switches, or establish a ubiquitous transport network. Just as importantly, UNE-P allows customers won from the incumbent to migrate to competitive carriers promptly and with minimal disruption -- as they can swiftly and seamlessly change long distance carriers.

19. AT&T's efforts to provide local telephony essentially mirror the Commission's current goals for the local telecommunications marketplace. AT&T's aim is to deploy a widespread facilities-based offering available to serve consumers. As the Commission well knows, AT&T is investing billions of dollars to acquire cable facilities and to upgrade those facilities to support two-way communications, but this process takes time and is extremely capital intensive. As for telephony services delivered over cable television networks, AT&T's cable operations in Texas are limited to a single market area (Dallas/Fort Worth), a portion of which is outside territory served by SWBT. AT&T is also testing a wireless local loop technology, but economic, topographical, and customer density factors will limit its role as a substitute for UNE-P in the immediate future.

20. Thus, for the near-term, AT&T's local entry strategy for voice services in Texas is dependent on its ability to obtain UNE-P from SWBT. As discussed below, however, market forces require AT&T to complement such voice services with xDSL services.

---

[21] *See, e.g., UNE Remand Order* ¶¶ 5, 110-112.

[22] *See BellSouth Louisiana Order*, 13 FCC Rcd at 20690 ¶ 141; *see also Local Competition Order, Third Order on Reconsideration and Further Notice of Proposed Rulemaking*, 12 FCC Rcd 12460, 12503 (separate statement of Chairman Reed Hundt).

C. The Growing Importance of xDSL Functionality and Bundles Makes it Imperative that CLECs Be Able To Provide xDSL Services

21. The growing importance of advanced services creates new opportunities for competition but it also creates new opportunities for ILECs to hinder their rivals and restrict consumer choice. With the explosive growth of the Internet, e-commerce, and consumer demand for ready access to information and entertainment, the number and types of customers who desire high-speed data services have grown dramatically. New entrants in the local telephone business cannot hope to achieve broad success over the long term unless they can efficiently provide high-speed digital data transmission capabilities in addition to traditional voice telephony.

22. xDSL technologies are uniquely capable of supporting competitors' efforts to provide voice and high-speed Internet access efficiently to the mass market of consumers over the existing wireline loop infrastructure.[23] In particular, deployment of ADSL technology enables consumers to have an "always on" connection to the Internet over their existing phone line, while still leaving the line "free" to initiate and receive voice calls.

23. It is increasingly evident that SWBT and other ILECs, realizing that they cannot halt the deployment of high-speed Internet access capabilities,[24] are now using consumer demand

---

[23] xDSL technologies place equipment, generally at each end of a local loop, that permits offering of a wide variety of data capabilities including (among others) asymmetric digital subscriber line ("ADSL"), symmetric digital subscriber line ("SDSL"), ISDN digital subscriber line ("IDSL"), rate adaptive digital subscriber line ("RADSL", a variant of ADSL), and high-bit-rate digital subscriber line ("HDSL").

[24] *See* Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146, *Report*, 14 FCC Rcd 2398, 2419 n. 84 (1999). *See also* Goldman Sachs Investment Research Report, "The Race to Build the Broadband Kingdom," dated August 12, 1999 at 23, attached hereto as Attachment 11. ("*Broadband Kingdom*") (noting that RBOC reluctance to roll-out xDSL service was "driven by several factors: lack of competition driving the Bells to innovate and invest; concern about the dilutive aspect of undertaking a major network

for xDSL capabilities *offensively*, to hinder CLECs from competing successfully in the provision of both data and voice services.

24. Thus, on the one hand, SWBT is currently utilizing, and aggressively marketing, the full capacity of its copper local loops so it can efficiently provide both voice and data service to a huge embedded base of voice customers. On the other hand, SWBT is employing numerous strategies to hold competitors back from offering xDSL services, both individually and in combination with voice services. SWBT's motives are clear: any voice competitor in Texas that cannot provide a similar integrated bundle of voice and data services quickly, either on its own or in partnership with another carrier, will soon find itself at a significant competitive disadvantage, not merely for data services, but for voice telephony as well.[25]

25. In order to bring full-fledged competition to Texas, AT&T must be able to satisfy consumers' demand by offering residential customers both data and voice services over a single loop, and it is working diligently to do so. AT&T's, and other CLECs' ability to compete fairly in Texas will be significantly hindered unless these practices are halted immediately. UNE-P is the critical component of AT&T's plans to provide customers a full array of competitively priced, high-quality services in Texas. Regardless of whether AT&T's xDSL assets are self-deployed or accessed through partnering arrangements, AT&T's efforts to compete will be significantly constrained unless SWBT provides nondiscriminatory support procedures for adding, modifying and removing xDSL capabilities to a new or already operating UNE-P line. Given that no such procedures are currently in existence, AT&T's ability to compete will be

---

enhancement along with new marketing efforts, and fear of cannibalizing existing high-profit services").

[25] *See Broadband Kingdom* at 26 ("In order to make their services 'sticky,' DSL carriers must have the ability to bundle services to offer the cost-cutting advantages of having all products -- data, voice, and Internet access -- over a single copper line. A carrier's success will ultimately

thwarted so long as SWBT continues its current practice of denying its xDSL service to customers who choose AT&T (or another carrier using UNE-P) as their voice carrier.

IV. SWBT IS OBSTRUCTING AT&T'S MARKET ENTRY EFFORTS IN A MANNER THAT ALSO THREATENS COMPETITION FOR VOICE SERVICES AND BUNDLED SERVICE PACKAGES

26. In Part V below, we discuss a number of SWBT practices that have hindered other CLECs' ability to implement xDSL services in Texas over the past several years. In this Part IV.A, we describe SWBT's anticompetitive actions that threaten to directly limit AT&T's ability to compete against SWBT in the provision of voice services, *i.e.*, its threats to deny SWBT xDSL service for customers who choose to move their voice service to AT&T using the UNE Platform. In Part IV.B, we discuss SWBT's attempts to obstruct AT&T's ability to partner with a third-party provider to provide xDSL service. SWBT should be denied Section 271 relief until it puts a stop to these tactics.

A. SBWT Is Withholding Its xDSL Service From AT&T Residential Customers Who Are Served Using the UNE Platform

27. Customers who already subscribe to an ILEC's data services are among the consumers most likely to demand service bundles. Indeed, in most cases they are already buying a bundle from the incumbent by obtaining both their voice and data services over the same loop. New entrants cannot reasonably hope to provide alternative local voice service to such customers if they are required to disconnect their existing xDSL service in order to obtain the CLEC's voice service. Forcing customers to change data carriers as a condition of their choosing a competitive voice carrier -- especially in the absence of any clear technical justification -- only serves to limit consumer benefits from competition and provide an unwarranted advantage in favor of SWBT,

---

be determined by its ability to deliver local, long distance, and Internet access over the same pipe").

the service provider with nearly a 100% share in the residential market. Yet that is exactly the option that SWBT is forcing on customers today.

28. SWBT claims that SWBT's Texas PUC-approved "processes allow CLECs to offer any type of xDSL service to their end user customer," subject only to future "national industry standards for spectrum management."[26] This claim is at best misleading and is far from the commercial reality.

29. In September 1999, a SWBT customer who had been using local voice service *and* xDSL service that was provided by SWBT on a single copper local loop decided to switch his local voice service to AT&T. The customer placed his order to change local voice service with AT&T, which forwarded it to SWBT as an ordinary request for UNE-P-based local service. SWBT then filled the order, and the customer was then able to use AT&T local voice service and SWBT data service on the same line. Subsequently, in a letter to the customer dated September 21, 1999, SWBT stated the following:

> We regret to inform you that we will have to disconnect the ADSL from your line September 28th if we do not hear from you by that date. We would be glad to welcome you back with Southwestern Bell to enable us to continue to provide the ADSL service.[27]

Faced with this choice, the customer -- who was an AT&T employee -- returned to SWBT as his local voice service provider. Subsequent calls to SWBT have confirmed that this experience is not an isolated event. SWBT will not provide its xDSL service to customers who decline to choose -- or to keep -- SWBT as their voice carrier.

30. This experience is instructive from two perspectives. First, the customer's ability to receive both AT&T local voice service and SWBT xDSL service debunks any notion that

---

[26] SWBT Application, Affidavit of Carol A. Chapman ¶ 3 (filed Jan. 10, 2000) ("Chapman Aff.").

there are technical reasons why the xDSL technology SWBT has employed (or for that matter the technology of any other xDSL provider) must be linked to the carrier that provides the voice service. Second, it starkly reveals SWBT's intention to use its unique, monopoly-derived, and ill-gained first-mover advantages in providing xDSL to dissuade customers from choosing a CLEC for voice services.[28] Given the inability of other CLECs to obtain their xDSL needs from SWBT, this anticompetitive SWBT policy effectively precludes AT&T's voice customers (and customers of other CLECs using a UNE-P architecture) from having access to xDSL services in Texas. Thus, the rapid growth of xDSL demand and SWBT's overwhelming share of in-region xDSL customers to date provides SWBT a significant and unfair advantage in competing for a key market segment of high value customers.

31. SWBT's decision to confront consumers with a Hobson's choice in changing carriers plainly reflects SWBT's desire to protect its voice monopoly, and not concerns about technical feasibility. On November 2, 1999, the Texas PUC held a public interest hearing where SWBT witnesses essentially conceded that *no* technical impediments prevent a customer from converting to a CLEC's UNE-P-based voice service while keeping SWBT's xDSL service.[29]

---

[27] A copy of the September 21, 1999, SWBT letter is attached hereto as Attachment 12.

[28] Starting in February, the xDSL service that will be terminated will be that of the data affiliate, ASI, not SWBT. As of the date of the Application, and even the date of this filing, SWBT (not ASI) is providing customers with xDSL service. For the reasons discussed below and in AT&T's Brief, the creation of ASI does not alter the legal or policy concerns expressed here.

[29] Investigation into Southwestern Bell Telephone Company's Entry into Texas InterLATA Telecommunications Market, Project No. 16251, Hearing on the Merits Before the Public Utility Commission of Texas at 365-72 (Nov. 2, 1999) ("11/2 TPUC Hearing Tr."), attached hereto as Attachment 13. AT&T raised these issues in an affidavit filed by its witness Russell Morgan on October 27, 1999. Affidavit of Russell Morgan on Behalf of AT&T Communications of the Southwest, Inc. (filed Oct. 27, 1999), attached hereto as Attachment 14. AT&T discussed these issues further at the Texas PUC's November 2, 1999 public interest hearing, and in a subsequent affidavit filed by Russell Morgan on November 19, 1999. *See* 11/2 Texas PUC Hearing Tr. at 341-69; Affidavit of Russell Morgan on Behalf of AT&T Communications of the Southwest, Inc. (filed Nov. 19, 1999), attached hereto as Attachment 15. SWBT did not address these issues in its Application. As yet, the Texas PUC has taken no action on any UNE-P issues associated

Instead, SWBT witnesses maintained that SWBT was entitled to prohibit migration of its xDSL customer to AT&T because SWBT had not yet worked out the details of necessary maintenance and billing arrangements.[30] Thus, SWBT has *admitted* that the only step needed to permit this service configuration is to make record-keeping changes for SWBT and the UNE-P local carriers. Of course, since this step requires resolution of SWBT systems issues, the speed at which these administrative issues are addressed is almost entirely under the control of SWBT, the very party that will benefit the most from delay and that is daily shielding another 1100 customers from meaningful voice competition. Given the critical market-affecting impact of SWBT's practice, the need for record keeping modifications should not, and cannot, be allowed to constrain competition.[31]

32. SWBT's deliberate termination (or withholding) of xDSL service when a customer chooses (or has chosen) a competitor's voice service virtually forecloses UNE-P entrants from competing for customers who have already elected to subscribe to the ILEC's xDSL services. It also would severely impair competition for the large number of customers who will want to obtain xDSL services in the future, because consumers who desire to retain or obtain the incumbent's xDSL service will have little alternative but to continue using SWBT as their voice provider, which "robs consumers of market choices."[32] This would be directly contrary to the logic of the *Line Sharing Order*, where the Commission recognized that "[r]equiring that competitors provide both voice and xDSL services, or none at all, effectively binds together two

---

with the provisioning of xDSL services, and there is no reason to believe that it will do so before the end of the 90-day decision period on the current application.

[30] 11/2 Texas PUC Section 271 Hearing, Tr. 365-72.

[31] Critically, SWBT did not deny AT&T's contention before the Texas PUC that SWBT's practices regarding its xDSL service foreclose customers' choice of voice carriers.

[32] *Line Sharing Order* ¶ 56. The Commission should reject any claim from SWBT or other ILECs that this competition-inhibiting practice is permitted under the Commission's *Line Sharing Order*. That order has nothing to do with situations where the ILEC is providing xDSL service.

distinct services that are otherwise technologically and operationally distinct."[33] This is precisely the effect of SWBT's policy terminating or withholding its xDSL service when a customer uses — or intends to use — a competitor's voice service.

33. This practice is particularly egregious where, as in Texas, an incumbent has made it virtually impossible for a CLEC using UNE-P to provide DSL services using other means.[34] Indeed, SWBT's practice of terminating or withholding xDSL service under such circumstances will, if unchecked, cause AT&T and other new entrants to forfeit much of the progress they have made in the Texas local marketplace by using UNE-P. CLECs who rely upon a UNE-P entry strategy will be unable to offer a full range of telecommunications services to consumers in competition with SWBT, either on their own or through partnering agreements with data CLECs. As a result, these CLECs will be relegated to competing for a rapidly decreasing subset of SWBT's embedded monopoly base of customers who are willing to rule out the prospect of using xDSL capabilities. Thus, SWBT's practice effectively destroys the utility of UNE-P as a viable entry vehicle for a large and growing number of customers.

34. If SWBT's practice of forbidding its xDSL service customers from obtaining voice service from UNE-P-based competitors is allowed to continue and its Application to provide long distance service is granted, then customers who desire one-stop shopping for local voice, data, and long distance service in Texas will have only one alternative: SWBT.[35] Thus, unless this practice is stopped immediately, the result will be serious and lasting damage to competition and diminished consumer choice. Certainly, SWBT's insistence on continuing this practice should foreclose any possibility of Section 271 approval. The Commission must make clear that any attempt by SWBT to implement such an anticompetitive practice after long distance entry

---

33 *Line Sharing Order* ¶ 56.
34 *See* Parts IV.B and V below.

will be subject to immediate and severe penalties, including suspension of SWBT's long distance authority.

B. SWBT Has Also Obstructed AT&T's Ability To Develop xDSL Offerings with Other Carriers

35. SWBT's actions to date provide no indication that it intends to comply with its obligations to support facilities-based advanced services competition in Texas. Indeed, SWBT has made it abundantly clear that it will only support CLEC efforts to offer combined voice and data services if they are willing to endure costly, time-consuming procedures that inconvenience customers and interfere with the CLEC's ability to build their reputations for prompt and reliable service. At the same time, however, SWBT has aggressively rolled out and marketed its own xDSL services to Texas consumers on a shared-line basis.

36. SWBT has thwarted AT&T's effort to provide Texas consumers with a local voice and facilities-based Internet access offer at every turn. Indeed, SWBT's insistence upon inefficient and customer disrupting operational procedures practically eliminates AT&T's ability to provide xDSL capabilities independent of SWBT. Specifically, SWBT has frustrated AT&T's attempts to partner with IP Communications, Inc. ("IP Communications"), a data CLEC that already has data facilities collocated in SWBT's central offices, to provide an integrated bundle of voice and data services over a single copper loop in conjunction with AT&T's UNE-P voice service.

37. In light of (1) the Commission's decision not to require national unbundling of DSLAMs and packet switching; (2) the opportunity to engage in commercial line-sharing arrangements (as established in the *Line Sharing Order*); (3) the rapid progress of SWBT's Project Pronto; and (4) SWBT's refusal to continue to provide xDSL service for consumers who

---

[35] As noted above, this is SWBT's avowed objective.

choose a CLEC for voice service, AT&T sought to determine whether SWBT would facilitate a CLEC's efforts to add its own xDSL service to an existing UNE-P arrangement. In order to move forward as quickly as possible, AT&T entered into a Letter of Understanding with IP Communications pursuant to which AT&T could deliver a combined voice and xDSL offering in Texas.

38. Acting on behalf of AT&T, IP Communications requested information from SWBT's account team on how to provision xDSL on a UNE-P line. On January 5, 2000, SWBT responded to IP Communications' request. That response proposed a method that would, as a practical matter, preclude IP Communications from provisioning xDSL on a competitive provider's existing UNE-P line. Specifically, SWBT stated that IP Communications would be required to (1) order a new loop for xDSL and (2) submit a second order for an unbundled port, connecting the back end of the splitter to the customer port, after which (3) SWBT would disconnect the existing UNE-P line.[36] This, of course, would entail significant expense and delay by imposing needless circuit rearrangements, and would also create the risk of service disruption for AT&T's customers through a procedure that is analogous to the current process for hot cuts. Not surprisingly, SWBT does not inflict the same complications on its own retail customers who want xDSL.

39. On January 11 and 12, 2000, AT&T requested information from SWBT's account team on how to: (1) establish a UNE-P line to SWBT with cross-connects to an xDSL provider; and (2) add xDSL to an existing UNE-P line. Once again, SWBT effectively refused to allow UNE-P lines to be used to provision xDSL service. In relevant part, SWBT's response stated that AT&T's requests "are not ones SWBT would address as they go beyond SWBT's

---

[36] *See* Jan. 5, 2000 e-mail message from SWBT Account Manager Patricia Bonham to Sean Minter of IP Communications, attached hereto as Attachment 16.

involvement. They look to be questions on how AT&T would design/engineer services they are trying to provide. That is not something SWBT should respond to."[37]

40. That response was both inadequate and disingenuous. SWBT knew full well that AT&T and other CLECs are (or will be) using UNE-P as the primary means to provide voice telephone service to Texas consumers.[38] Because the facilities used to provide such service are almost all within SWBT's physical control, these carriers have no choice but to rely upon SWBT to facilitate the provisioning of xDSL service over the same line. SWBT's failure to provide CLECs with the administrative and technical support necessary to facilitate such arrangements forecloses the CLECs' ability to provide services that consumers want.

41. There can be no doubt that SWBT is technically capable of providing the support CLECs need to provide such services. Market experience demonstrates that SWBT can provision both data and voice services over a single copper loop when it wishes to do so for itself (or its data affiliate). The same physical arrangements would enable CLECs using UNE-P to take advantage of the same line sharing arrangements. In fact, the technical and administrative changes needed to make such arrangements available to competing voice carriers are virtually the same ones SWBT must adopt when it is line-sharing on an arms length basis with itself (or an affiliate) or with a data CLEC. AT&T is aware of no technical reason why the same "line sharing" that SWBT currently does with itself, will soon do with its affiliate, and has been ordered to do with data CLECs cannot also be done by a carrier using UNE-P, or its partner. Certainly SWBT has not yet identified any such technical impediment.

---

[37] *See* e-mail message from Robert Bannecker, SWBT Account Manager - Industry Markets, to Julie Chambers, attached hereto as Attachment 17.

[38] Three quarters of the unbundled local loops SWBT provided in Texas are in the form of UNE-P. *See* SWBT Application at 35. The UNE-L is used primarily in the business context and resale is used in a small (and diminishing) number of situations, so UNE-P is currently the primary entry vehicle for residential customers.

42. Given the sure knowledge that SWBT had made a combination of voice and data services available to consumers on the same copper loop, on January 18, 2000, IP Communications submitted four orders requesting to add xDSL capability to an existing AT&T UNE-P line.[39] On January 20, SWBT rejected all orders submitted by IP Communications, indicating only that "LSR request & remarks are conflicting."[40] Subsequent efforts to establish a dialogue with SWBT (and SBC) personnel on this topic have all been rebuffed, or referred to others whose disinclination to cooperate with AT&T on the matter has already been established.

43. SWBT's failure to accommodate AT&T's attempts to provide xDSL services over a UNE-P loop significantly diminishes the scope of services AT&T can provide in Texas. This, in turn, will inevitably limit the number of potential customers to whom AT&T, or other similarly situated CLECs, can market voice and data services, severely curtailing the prospects for sustainable competition and denying residential consumers the benefits of choice. SWBT's conduct is flatly inconsistent with its nondiscrimination obligations and the public interest. Thus, as a prerequisite for Section 271 approval, the Commission must require SWBT to prove that it has fully implemented effective and nondiscriminatory arrangements, facilities, and processes that permit competitors such as AT&T to provide an integrated bundle of voice and data services, either alone or with a partner, without disruption and without foregoing the competition-enhancing benefits of UNE-P.

44. The Commission's decision to enable data CLECs to "line share" with SWBT when SWBT provides the voice service affords no colorable excuse for SWBT to fail to cooperate with a voice CLEC who wishes to exercise its rights of reasonable and

---

[39] The orders specified that they were for the purpose of "add[ing] DSL to an existing Loop and Port Combination Line" and directed SWBT to "cut the loop and Port over to the specified CFA."

[40] Copies of SWBT's LSR Reject Forms are attached hereto as Attachment 18.

nondiscriminatory access to UNE-P (including the right to enhance the UNE-P through the addition of xDSL service). To the contrary, the reasoning of the *Line Sharing Order* is to precisely the opposite effect.[41] SWBT must not be permitted to reduce the competitive viability of competitors who choose to employ UNE-P as their entry strategy, either through foot-dragging on operational and administrative procedures, or through the use of patently inadequate operational support. Therefore, SWBT must be required to establish capabilities and procedures that permit xDSL to be added effectively and efficiently. These processes must be nondiscriminatory compared to the line sharing support SWBT provides to itself, to its data affiliate or to data CLECs.

45. At a minimum, SWBT must be required to provide workable and proven operational support for carriers, such as AT&T, that seek to provide xDSL capabilities in conjunction with the UNE platform. Such support (as described above) must be available when SWBT complies with line-sharing requirements or is granted Section 271 relief, whichever occurs earlier. And in all events, if the Commission grants Section 271 relief before SWBT demonstrates that these capabilities are operating as intended, the Commission must assure that SWBT will be held accountable by adopting substantial financial penalties that increase with each day of delay and that suspension of SWBT's long distance authority will result if SWBT does not deploy these capabilities in accordance with the currently established timelines for compliance with the *Line Sharing Order*.

46. In summary, the Commission must ensure that Texas consumers are provided with an unfettered opportunity to choose the local service providers they want. That is how competition works. To make that decision meaningful, consumers must have access to a full range of voice and data services from both competitive and incumbent LECs. SWBT's failure to

[41] *Line Sharing Order* ¶ 56.

facilitate customer choice, both by refusing to facilitate commercial line-sharing arrangements by voice CLECs using UNE-P and by denying its xDSL service to customers who choose a UNE-P CLEC for voice service, robs Texas consumers of competitive choices the Telecommunications Act was designed to assure.

V. SWBT'S EFFORTS TO THWART ADVANCED SERVICES COMPETITION EXTEND TO ALL XDSL PROVIDERS.

47. SWBT's efforts to prevent full-fledged xDSL competition in Texas are not limited to obstruction of UNE-P-based carriers. SWBT has denied all competing xDSL providers an opportunity to enter the market on a nondiscriminatory basis.

48. As discussed above, SBC's retail xDSL strategy, Project Pronto, is the cornerstone of the company's efforts to bring bundled services to its customers, and SBC's goal is to win 1 million xDSL customers by the end of 2000. Of course, SWBT's remarkable progress in rolling out xDSL offerings would not have been possible if the company's retail operation had been faced with the same kinds of delays that it has forced on its competitors' efforts to obtain xDSL facilities. For example, on January 12, 1999, SBC announced its intention to deliver xDSL-based services from 526 central offices across the country to 8.2 million residential customers and 1.3 million business customers.[42] On March 26, 1999, just ten weeks after the initial announcement, SWBT's retail service was available.[43] In sharp contrast, despite efforts dating back to May 1998 through September 1999 -- 16 months later -- SWBT had provided all CLECs a grand total of 16 new xDSL-capable loops.[44]

---

[42] *See SBC Leader* at 1.

[43] *See* Bruce Hight, *Austin Area Gets Speedy Net Access*, AUSTIN AMERICAN-STATESMAN, Mar. 26, 1999, at D1, attached hereto as Attachment 19.

[44] *See* Chapman Aff. ¶ 4.

PFAU/CHAMBERS
DECLARATION ERRATA
(Attachment 3)

LOCATION	CORRECTION
p. 12, ¶ 24, fn. 25, l. 3	Delete "ultimately"
p. 27, ¶ 55, l. 7	"failure" should read "fail[ure]"
p. 35, ¶ 68, l. 2	Add quotation marks after "discounts"
p. 35, ¶ 68, l. 3	Add quotation marks before "nondiscriminatory"
p. 35, ¶ 68, l. 3	"xDSL" should read "[xDSL]"
p. 38, ¶ 76, fn. 106, l. 2	"Chapman Att. ¶ 5" should read "Chapman Att. ¶ 6"
p. 40, ¶ 80, l. 2	"valid" should read "reliable"
p. 44, ¶ 87, fn. 131, l. 4	"3(n)(3)" should read "4(n)(3)"

ATTACHMENT 8

Minimum Requirements if ILECs Are Permitted to Require Disassembly of a UNE-P Combination and Require the Use of Collocation When DSL Capabilities Are Added to or Provided with a UNE Loop

I. ILECs must establish a simple UNE-P-like ordering and provisioning process

A. For existing UNE-P customers, UNE-P CLECs should only be required to submit a single mechanized order to add DSL capabilities

No greater level of information may be required from UNE-P CLECs who are adding or removing DSL to a working UNE-P configuration than is required when a data CLEC (or the ILEC's data affiliate) adds or removes HFS on a working ILEC POTS line

B. ILECs must provide a single mechanized order procedure for CLECs to use to establish a new loop and port that are combined within the CLEC's collocation, provided that the loop and port order are identifiable as a "UNE-P+DSL" order (see III.A below). The ordering process should be telephone number oriented, as are current UNE-P ordering processes

C. To the extent that CLECs require additional information to submit an order to add DSL to a working UNE-P line, or to provide DSL with a newly installed loop, the ILEC must make the information available to the CLEC through a mechanized pre-ordering transaction that can be integrated into the CLEC's order

D. When implementing CLEC service requests, ILECs may not require a greater number of cross-connections, nor a greater length of tie pairs, than are employed when the ILEC line shares with its own data affiliate or any other data CLEC, unless agreed to by the requesting CLEC

E. UNE-P CLECs must be permitted to re-use an existing loop without the necessity of loop qualification but may, at their option, request that the ILEC provide loop qualification. CLECs may also request the ILEC to perform loop conditioning. All requested loop qualification/conditioning must be nondiscriminatory compared to similar support provided in connection with line sharing for other CLECs or the ILEC's data affiliate

F. The ILEC process for reconfiguring an existing UNE-P to terminate on collocation for the purpose of adding DSL may not require a re-specification (i.e., re-ordering) of, or result in loss of any features or information specific to, the current retail voice service of the end user, including but not limited to:

1. The customer's working telephone number
2. The currently employed local loop (if it is or can be made DSL capable)
3. 911 access or listings
4. LIDB information

5. Activated features in the local switch
6. Directory listings

G. ILECs must treat the voice portion of the service – the loop-collocation-switch port configuration -- as it would any other UNE-P or POTS type service. Thus, supporting operational processes for ordering and provisioning should use existing UNE-P interfaces and depart minimally, if at all, from UNE-P ordering requirements, and tracking should be telephone number oriented

H. ILECs must accept and process orders to reconfigure a UNE-P combination even if the specific AECN identifying the carrier requesting the reconfiguration order is different from the that of the carrier establishing the initial service configuration, provided that both AECNs are associated with the same CLEC

II. ILECs must provide maintenance and repair ("M&R") functions for the voice service aspect of the UNE-P+DSL configuration in the same manner they provide M&R for voice-only UNE-P services

ILECs must make maintenance and other related testing and repair support available for voice services provided through use of a loop-collocation-switch port configuration that is equivalent to the support they provide for the UNE-P loop/port combination. Accordingly, upon CLEC request, ILECs must perform all pre-service and post-delivery maintenance and repair for the loop-collocation-switch port configuration (other than work that must be done physically within a physical collocation) using procedures that are no more complex, no less comprehensive, and no more manual than those used for UNE-P. M&R support for the voice portion of the UNE-P+DSL configuration must be provided using the same interfaces that support M&R for UNE-P voice-only services. Unless otherwise requested by a CLEC, submission and tracking of maintenance transactions for the voice portion of the UNE-P+DSL configuration should be telephone number oriented

In order to obtain such support, CLECs must connect the loop and port within the collocation using an ANSI-compliant splitter, regardless of whether the splitter is standalone or integrated within multifunction electronics; provided that ILECs must accept blanket certification from CLECs that they employ ANSI-compliant splitters

III. ILECs must track and measure their performance

A. ILECs must define a simple designator (e.g., USOC) that can be employed to track their support of loop-collocation-switch port configurations that are used for line splitting

B. Based upon that designator, ILECs must track performance in at least the following areas:

1. Retail customer voice service interruption interval
2. Trouble reported within "X" days of reconfiguration
3. Monthly trouble report rates
4. Mean time to repair
5. Repeat trouble reports
6. Provisioning due dates met
7. Average FOC interval
8. Average provisioning interval

C. Operational results for the above must be reported to CLECs each month and shown in comparison to

1. The ILEC's own experience when it line shares with its data affiliate (or line splits with itself) and
2. The ILEC's experience when it line shares with all other CLECs (in aggregate)

D. To the extent an ILEC asserts that different/modified OSS is required, compared to the OSS for line sharing, the ILEC must prove that such differences and modifications are necessary and efficient and must provide and test the modifications so that the OSS are commercially viable within 90 days

IV. Billing Requirements (Section IV)

If requested by a CLEC, ILECs must provide wholesale billing and usage records that permit UNE-P+DSL to be offered in an efficient manner, including the following:

A. Billing for each element used for voice service (or used for both voice and data service) must identify the telephone number associated with the voice service

B. All usage records delivered for UNE-P+DSL must conform to existing record exchange agreements, including, but not limited to, use of the same interface and identification of the telephone number of the originating call

C. Billing for elements applicable to data services (to the extent the ILEC provides any data-specific support) must be separately identified in a mutually agreeable manner (for example by a jointly utilized circuit ID)

V. ILECs must support shared collocation arrangements among CLECs

A. CLECs must be allowed to sublease collocation space to one another without any additional charges from an ILEC, unless the sharing CLECs subsequently require floor space or power additional to that previously arranged for by the subletting CLEC. If a dispute arises over the applicability of additional charges, ILECs must bear the burden of proof and may not prohibit deployment of additional

equipment or refuse to cross-connect to the CLECs' equipment while the dispute is being resolved

B. ILECs may not impede the CLECs' sharing of the equipment placed within collocated space. The terms of such sharing shall be governed solely by a commercial agreement between the CLECs engaging in such shared use

C. ILECs must permit and operationally support shared use of virtually collocated equipment, provided only that the originally collocating CLEC has provided the ILEC with a letter of authorization identifying the subletting CLEC. ILEC operational support must include, but not be limited to, provisioning and maintenance activities for either of the sharing parties as if each had the same rights as the initial collocator

D. ILECs must provide in-office wiring, including but not limited to tie cables, and must permit shared connecting facilities and shared cross-connection frames, that enable equipment in shared collocations (physical or virtual) to be efficiently interconnected with ILEC-provided unbundled network elements

E. If an ILEC subsequently raises a legal challenge to a specific shared use of equipment, facilities, or collocation as described above, the ILEC must continue to permit and support both existing and new uses of such shared use of collocation, facilities, and collocated equipment during the pendency of such legal review and any appeals therefrom, until the matter is final and unappealable

VI. Cost-based pricing is required

ILEC charges for cross-connection work and all other activities necessary to efficiently support the loop-collocation-switch port configuration must be cost-based on the basis of forward-looking costs

A. The ILEC bears the burden of proof to demonstrate why the charges should be higher than reasonably equivalent charges applicable to line sharing

B. ILECs may not rely upon a CLEC challenge of proposed charges to delay delivery of requested support

VII. Other issues

A. ILECs must establish procedures that effectuate a records-only change to transfer ownership of the HFS among CLECs who will be using the same equipment to provide data service, regardless of which carrier owns the equipment

Orders for such changes may only be issued by the CLEC currently billed for the HFS

Upon receipt of such orders, the ILEC shall not disrupt the physical configuration of the service, provided the new owner of the HFS is authorized by the previous owner of the HFS to share its collocation and collocated equipment

The ILEC may not charge in total more than the full forward-looking cost-based rate for use of any ILEC UNEs or other equipment

B. For loops on which line sharing already exists, ILECs must accept a UNE-P migration order to transfer ownership of the entire loop UNE, provided that the CLEC owning the HFS submits the migration order. Such orders shall not result in any greater service disruption than occurs when a UNE-P migration is performed for local voice services

C. ILECs may not require that a CLEC terminate a UNE loop and a ULS element in a collocation if such collocation is not required to access additional functionality provided by the collocated equipment

DCDOCS:176653.1(3SB101!.DOC)